

**FORT BEND COUNTY TOLL ROAD AUTHORITY
P.O. BOX 1307
RICHMOND, TEXAS 77406**

August 24, 2017

City of Wallis
P.O. Box 190
Wallis, Texas 77485
Attn: Mayor Steve Bockel
Cc: Mr. James King, Councilmember

RE: TEMPORARY RIGHT OF ENTRY AGREEMENT

Dear Mr. Bockel:

This letter confirms FORT BEND COUNTY TOLL ROAD AUTHORITY (“**FBCTRA**”) and THE CITY OF WALLIS, a Texas general law municipality located in Austin County, Texas (the “**City**”) are beginning negotiations relating to a long term trail lease agreement covering that portion of the 100-foot wide former Southern Pacific Railroad (“**SPRR**”) rail corridor (formerly referred to by SPRR as the “Bellaire Branch”, or by FBCTRA and its seller, Metropolitan Transit Authority of Harris County, Texas (“**METRO**”), as the “Westpark Corridor”) located in Austin County (the “**Property**”). The Property is more particularly described in deeds from SPRR to METRO recorded in Volume 674, Pg. 858, Official Records of Austin County, and depicted in certain railroad maps for these counties, copies of which materials have been furnished to you by our counsel, Cassie Stinson, prior to the date hereof.

In connection with our pending lease negotiations, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, FBCTRA hereby grants the City permission and the right to enter and use FBCTRA’s Property for the purposes and on the terms and conditions described below:

1. Term. The right of entry granted in this letter (the “**ROE Agreement**”) shall be in effect for the period beginning on the Effective Date (defined below) and ending on the earlier of (i) the date that is One-Hundred Eighty (180) days after the Effective Date, or (ii) the date that is the commencement of the parties’ proposed trail lease agreement (the “**Term**”). This ROE Agreement shall not be cancelled by either party hereto during the Term.
2. Purpose. The City, its consultants, authorized employees, officials and representatives of the foregoing (collectively, the “**City Parties**”), shall have the right to enter the Property throughout the Term on foot or by vehicle, except that ***no entry by vehicle is permitted on any existing bridge structures on the Property.*** The City Parties shall have the right to enter and use the Property for purposes of conducting due diligence inspections of the Property, including but not limited to structural inspections of the bridges on the Property and environmental inspections and testing. Upon the request of FBCTRA, the City shall provide any electronic copies of reports and/or other documentation relating to such inspections to FBCTRA on or before the last day of the Term.
3. Covenants and Conditions. The right of entry granted herein is expressly made subject to the condition that the City shall fully and timely perform the following covenants at all times during the Term:
 - a. The right of entry granted herein is subject to all existing conditions and defects, whether obvious or latent, known by FBCTRA or unknown, and the City, for itself and all other City

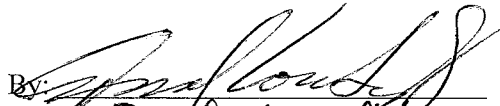
Parties, assumes all risk of loss suffered or caused by any person entering the Property, including but not limited to bodily injury or death, or damage or loss of property. Nothing contained herein shall require FBCTRA to bear any costs or expenses associated with any work performed by any of the City Parties, or for any loss, cost or damages for bodily injury or death, or damage or loss of property, arising directly or indirectly out of the entry on the Property by the City Parties.

- b. Prior to any entry on FBCTRA's Property, the City shall (a) cause each of the City and all of the City's contractors and subcontractors to provide evidence of commercial general liability insurance in a policy amount of not less than \$1,000,000, and naming FBCTRA as an additional insured; and (b) provide FBCTRA with certificates of insurance with respect thereto.
 - c. The right of entry granted herein is subject to a telecommunications/fiber optic easement held by MCI or its successors, located within and along, not across, the Property. Prior to commencing any soil sampling or other digging or excavation work, the City shall notify MCI or its successor before beginning such sampling or excavation.
 - d. The right of entry granted herein is subject to all existing easements, leases, licenses, and crossings of record in Austin County, Texas, or visible on the ground from an inspection of the Property. This right to enter and use FBCTRA's Property is granted subject to all existing conditions, AS-IS, WITH ALL FAULTS, without any warranty or representation by FBCTRA of any kind, express or implied, statutory or otherwise, all of which are hereby expressly disclaimed by FBCTRA.
4. General Provisions. This Agreement shall be governed by the laws of the State of Texas. This Agreement shall be binding on each party's respective successors and permitted assigns; provided, however, that (i) neither party hereto shall have the right to assign this Agreement to any other person or entity other than an affiliate owned or controlled by the entity that owns or controls, directly or indirectly, the assigning party, except with the prior written consent of the non-assigning party hereto; and (ii) the assignment of any ownership interest or voting control in a party hereto shall be an assignment by such party of this Agreement. This Agreement shall not be amended or modified in any way except by a written instrument duly executed by each of the parties hereto. Each party hereto warrants and represents to the other that the individual executing this Agreement on behalf of such warranting party that such individual has been duly authorized to so execute this Agreement, and that when so executed this Agreement is a valid and binding obligation of such warranting party.
5. Counterparts; Electronic Signatures. This Agreement may be executed in multiple counterpart originals, each of which shall be deemed to be an original, and all such counterparts shall constitute one document. To facilitate execution of this Agreement, the parties may execute and exchange, by fax or electronic mail PDF, counterparts of the signature pages, which may be detached and collated into a single copy hereof to physically for one document.

To evidence the City's agreement to the terms of this Agreement, please execute a copy of this letter in the space provided below, and return it to the undersigned.

Very truly yours,

**FORT BEND COUNTY TOLL ROAD
AUTHORITY**

By: 
Name: Dr. Audrey, Chen
Title: Chairman

ACCEPTED AND AGREED TO
effective as of _____, 2017
(the "Effective Date"):

CITY OF WALLIS

By: _____
Name: _____
Title: _____

To evidence the City's agreement to the terms of this Agreement, please execute a copy of this letter in the space provided below, and return it to the undersigned.

Very truly yours,

**FORT BEND COUNTY TOLL ROAD
AUTHORITY**

By: _____
Name: _____
Title: _____

ACCEPTED AND AGREED TO
effective as of 08/08, 2017
(the "Effective Date"):

CITY OF WALLIS

By: Steve Beckel
Name: STEVE BECKEL
Title: MAYOR